

REMARKS

Claims 1, 3, 13 and 21-23 have been rejected under 35 USC § 102 as reciting subject matter anticipated by the teachings contained in the Roth patent. It is well settled that a rejection under 35 USC § 102 requires that each and every element recited in a rejected claim must be disclosed in the applied reference (patent). To determine the extent of teachings set forth in the Roth patent, the salient elements of the Roth device will be reviewed.

The purpose set forth in the Roth patent is to positionally stabilize a carpet protector upon the underlying carpet in a vehicle. Such stability is sought to be obtained by one of three methods. First, the carpet protector may include fibers extending downwardly from the underside of the carpet protector for the purpose of having such fibers penetrate into the nap of the underlying carpet. Second, a retaining device 50 may be attached to the underside of the carpet protector and it includes stiff bristles 24 extending downwardly into engagement with the nap of the underlying carpet. Third, a dual sided retaining device 55 having bristles extending in opposed directions may be placed intermediate the carpet protector and the underlying carpet to have the bristles on one side engage the nap on the underside of the carpet protector with the bristles on the other side engaging the nap of the carpet.

The present invention is directed to a carpet for detachable attachment to the

step and riser, which are generally smooth surfaced. The means for attachment comprise a hook and loop fastener disposed intermediate the carpet and the step with one of the loop fastener or the hook fastener being attached to the rug and the step. A second hook and loop fastener is disposed intermediate the riser and the carpet with one of the hook fastener or loop fastener being attached to the rug and the riser.

The Roth device requires that either the carpet protector, retaining device 50 or retaining device 55 includes bristles for penetrable engagement with the underlying carpet. No such requirement exists in the present invention. Claim 1 clearly recites a pair of hook and loop fasteners for securing the rug to the step and riser. There is no teaching in the Roth patent for a hook and loop fastener to be used in any manner with the Roth carpet protector. Furthermore, the Roth carpet protector functions/operates in a manner totally distinct from that of the present invention in order to prevent slippage or movement between the carpet protector and the underlying rug.

It is therefore self-evident that the recitations set forth in Claim 1, as originally filed and as amended, describe subject matter not present in the Roth teachings. Accordingly, withdrawal of the rejection of Claim 1 is respectfully requested.

Claim 3 depends from Claim 1 and recites further features of the rug to be

attached to the step and riser. As the Roth disclosure does not anticipate the subject matter set forth in Claim 1, it cannot anticipate the subject matter set forth in Claim 3. Withdrawal of the rejection of Claim 3 is respectfully requested.

Claim 13 is directed to a method for detachably attaching a rug to a step and to a riser using male and female snap locks. The Roth patent has no teaching of any snap locks. Accordingly, Claim 13 cannot be anticipated by the teachings set forth in the Roth patent. Withdrawal of the rejection of Claim 13 is respectfully requested.

Claims 21-23 recite methodology for securing a rug to a step and a riser using pairs of hook and loop fasteners. For reasons set forth above, the Roth patent has no teaching of the use of hook and loop fasteners to secure a carpet protector to an underlying carpet. Accordingly, the methodology recited in Claims 21-23 cannot be anticipated by the teachings contained in the Roth patent. Withdrawal of the rejection of Claims 21-23 is respectfully requested.

Claims 2, 4-9 and 14-20 have been rejected under 35 USC § 103 as describing subject matter obvious over certain teachings contained in the Roth patent in view of male fasteners 22 and female fasteners 24 disclosed in the Altus patent. In particular, the Examiner contends that if the Altus sets of male and female fasteners were incorporated in the carpet protector of Roth, the present invention, as recited in these claims, would be obvious.

Before proceeding with a discussion of this rejection with consideration of the subject matter recited in the claims, it may be well to briefly review the extent of the Altus teachings.

The purpose of the Altus device is that of providing a retainer 23 having downwardly extending bristles 32 for mechanically engaging the nap of a carpet to be protected. In turn, floor mat 20 includes a plurality of apertures 21 for penetrable engagement by male fasteners 22 extending upwardly from retainer 23. The floor mat is secured to the retainer by female fasteners 24 engaging male fasteners 22 to retain the floor mat mounted upon the male fasteners. The Altus male snap fasteners or female snap fasteners are part of the retainer and carpet protector and neither are attached to the underlying surface to be protected.

Assuming, in arguendo, that retainer 23 is equivalent to Roth retainers 50 or 55, there is still no teaching of the use of sets of hook and loop fasteners. Moreover, there is no teaching if male/female snap fasteners be attached to and supported by the surface to be protected.

Claim 2 depends from Claim 1 wherein sets of hook and loop fasteners are recited. Claim 2 adds the further limitations of the use of male and female snap lock fasteners secured to the surface to be protected (step or riser). The Altus snap lock fasteners are not secured to the surface (carpet) to be protected. Instead, the snap

lock fasteners are simply a mechanism whereby the retainer, penetrably engaging the underlying carpet with bristles, is secured to the floor mat. Thus, not only would the proposed combination of teachings not result in anything like the invention recited in Claim 2 but the whole purpose of the proposed combination is different from that of the present invention. Withdrawal of the rejection of Claim 1 is therefore respectfully requested.

Claims 4-9 depend directly or indirectly from Claim 2 and recite further particular features of the present invention. For reasons set forth above, Claim 2 cannot be considered as reciting subject matter obvious over the proposed combination of teachings set forth in the Roth and Altus patents. Accordingly, the further features recited in Claims 4-9 cannot be considered obvious. Withdrawal of the rejection of Claims 4-9 is respectfully requested.

Claim 14 depends from Claim 13 and further recites methodology relating to the use of hook and loop fasteners to a step and a riser. For reasons set forth in detail above, there is not so much as a suggestion of using hook and loop fasteners in any combination of teachings set forth in the Roth and Altus patents. Thus, the methodology recited in Claim 14 cannot, perforce, be considered obvious. Withdrawal of the rejection of Claim 14 is respectfully requested.

Claims 15-20 depend directly or indirectly from Claims 13 or 14. For

reasons set forth above, neither Claim 13 nor Claim 14 can be considered as anticipated by or rendered obvious over any teachings contained in the Roth or Altus patents, whether taken individually or in combination. Withdrawal of the rejection of Claims 15-20 is respectfully requested.

Claims 10-12 have been rejected under 35 USC § 103 as reciting subject matter obvious over certain teachings contained in the Roth patent in view of further teachings contained in the Altus patent.

Claim 10 depends from Claim 1. For reasons set forth above, there is no teaching in either the Roth nor the Altus patents for the use of hook and loop fasteners to secure a rug to an underlying surface to be protected. Thus, Claim 10 recites subject matter that is not even found in the applied patents.

Claim 11 depends from Claim 2 and recites the further feature of male and female snap lock fasteners for securing a rug to the surface to be protected. As set forth above, the Altus patent has no such teachings as it teaches the use of snap lock fasteners for securing a floor mat to a retainer that, in turn, is in mechanical engagement with the nap of the underlying carpet to be protected. Thus, one cannot consider that the subject matter of Claim 11 is obvious in view of the Roth and Altus teachings.

Claim 12 depends from Claim 11 and recites a further feature. As Claim 11 cannot be considered as reciting obvious subject matter, neither can Claim 12 be considered to recite obvious subject matter.

In view of the detailed review of the pertinent teachings set forth in each of the Roth and Altus patents, the correlation of the subject matter of the present invention with that contained in each of the Roth and Altus patents, the correlation of the subject matter recited in the claims and the amendments to the claims to more particularly point out and distinctly claim the invention, it is believed that the application is in condition for allowance, which allowance is respectfully requested.

Respectfully Submitted,

CAHILL, VON HELLENS & GLAZER P.L.C.

A handwritten signature in black ink, appearing to read "C. Robert von Hellens", is written over a horizontal line.

C. Robert von Hellens
Reg. No. 25,714

155 Park One
2141 E. Highland Avenue
Phoenix, Arizona 85016
(602) 956-7000

c:\Clients\Prest-O-Fit\ToPTO\A-22Response-May2005